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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,948	12/28/2000	Perry G. Vincent	23689-210	7545
26890	7590	07/01/2004	EXAMINER	
JAMES M. STOVER NCR CORPORATION 1700 SOUTH PATTERSON BLVD, WHQ4 DAYTON, OH 45479				MEINECKE DIAZ, SUSANNA M
ART UNIT		PAPER NUMBER		
		3623		

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	VINCENT, PERRY G.
Examiner Susanna M. Diaz	Art Unit 3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 December 2000.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-20 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
10) The drawing(s) filed on 28 December 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/2/01.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

1. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10 and 16-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-10 and 16-20 recite the useful, concrete, and tangible result of recommending an interaction strategy; however, they fail to incorporate the technological arts and are therefore non-statutory.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

“NCR’s Next Generation Software Makes True Customer Relationship Management a Reality” (July 26, 1999);
“NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution” (September 27, 1999);
“New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships” (October 4, 1999);
Sweat et al., “Instant Marketing” (August 2, 1999);
“NCR to Help Customer Focus Switch” (September 1999);
“New Software Sets Up Banks for Tailored Customer Marketing” (August 12, 1999);
“NCR Corporation” (July 28, 1999);
“Data Collector’s Items” (September 30, 1999);
“NCR Corporation and MicroStrategy Ink \$52.5 Million Agreement” (October 4, 1999);

"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11, 1999).

6. Claims 1-20 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. As explained in the art rejection above, claims 1-20 are clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

"NCR's Next Generation Software Makes True Customer Relationship Management a Reality" (July 26, 1999);
"NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution" (September 27, 1999);
"New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships" (October 4, 1999);
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"Data Collector's Items" (September 30, 1999);
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"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11, 1999).

NCR Corporation is the assignee of the instant application and the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, were publicly used and sold more than one year prior to Applicant's filing date of December 28, 2000. Furthermore, Applicant's own specification admits that the invention is based on "NCR Corporation's InterRelate+™ customer relationship management software" and "NCR's Relationship Optimizer™ marketing automation solution" (see page 6 of the specification).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents
P.O. Box 1450**

Alexandria, Virginia 22313-1450

or faxed to:

(703)305-7687 [Official communications; including After Final communications labeled "Box AF"]

(703)746-7048 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.

Susanna Diaz
Susanna M. Diaz
Primary Examiner
Art Unit 3623
June 28, 2004